

ENTERED

June 29, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. 2:13-CR-101
	§	
JOSEPH C.M. KRIST	§	

ORDER

On June 27, 2016, the Clerk received Movant Joseph C.M. Krist's second motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (D.E. 115). The Court will construe Movant's motion as a motion for leave to amend his currently pending § 2255 motion (D.E. 103) pursuant to FED. R. CIV. P. 15(a)(2). In the interest of justice, Movant's motion for leave to amend is **GRANTED**.

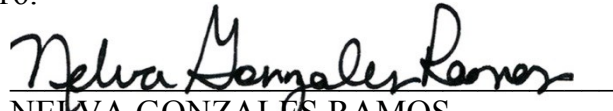
The Government is hereby **ORDERED** to answer the claims raised in Movant's amended § 2255 motion (D.E. 115) not later than thirty days after the entry of this Order. Pursuant to Rule 5(d) of the Rules Governing Section 2255 Proceedings for the United States District Courts ("2255 RULES"), Movant may file a reply not later than thirty days after service of the Government's answer.

Also pending is Movant's motion to appoint counsel to assist him with his § 2255 motion (D.E. 116). A § 2255 movant is not automatically entitled to appointed counsel. *See United States v. Vasquez*, 7 F.3d 81, 83 (5th Cir. 1993); *see also Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) ("We have never held that prisoners have a constitutional right to counsel when mounting collateral attacks upon their convictions. Our cases establish that the right to appointed counsel extends to the first appeal of right,

and no further.”) (internal citations omitted). Defendant’s motion for appointment of counsel (D.E. 116) is therefore **DENIED** without prejudice.

Finally, Movant has filed a motion to proceed *in forma pauperis* (D.E. 117). There is no filing fee for a § 2255 motion. *See* 2255 RULES, Rule 3, n.1. Movant’s motion to proceed IFP (D.E. 117) is therefore **DENIED** as unnecessary.

ORDERED this 29th day of June, 2016.


NEELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE